

REMARKS

Treatment of this application under 37 CFR §1.114 is noted. Claims 17-20 remain in this application, unexamined, pending allowance of a generic or linking claim.

Rejected claims 1-6, 8-12, and 14-16 have been cancelled, and rejected claims 7 and 13 have been amended.

Claims 7 and 13 have been variously rejected under 35 USC §103(a) as being unpatentable over Chin '233 alone and Chin '233 in view of Wilk et al. '586. These rejections are respectfully traversed.

These claims have been amended merely to define an inherent aspect of the invention more specifically, and as amended now recite “a flexible and resilient hood having an open distal end and an open proximal end that is coupled to the distal end of the second lumen for recurring operation in a tapered transition orientation between distal and proximal ends thereof responsive to a surgical instrument being retracted within the second lumen proximally from the transparent tip, and in an expanded orientation in response to extension through the distal end thereof of a surgical instrument projecting forward from the open distal end of the second lumen and through the open distal end of the hood”.

In addition, dependent claim 13 has been amended to specifically recite “the hood includes a tapered transition contour between distal and proximal ends

thereof near the location along the cannula at which the first lumen extends beyond the open distal end of the second lumen to taper the sectional area of the cannula and reduce axial force required to advance the cannula through tissue”, and new dependent claim 21 recites “the hood is eccentrically disposed relative to an elongated axis of the cannula near the distal end thereof substantially in alignment with the second lumen”.

These aspects of the claimed invention establish low sectional profile of the elongated cannula for dissecting tissue through which the distal end of the cannula penetrates. Reduced axial force is needed to penetrate tissue due to the smooth transition provided by the defined hood that serves as a fairing or transitional segment between the cross-sectional areas of the single and combined lumens of the cannula, as claimed.

These aspects of the claimed invention are not shown or suggested by Chin ‘233 or Wilk et al ‘586 considered in any combination. As the Examiner correctly notes, Chin ‘233 fails to show (or in any way disclose) a flexible hood coupled to the distal end of the second lumen. And Wilk et al. ‘586 merely discloses a preoperative procedure by which a flexible sheath is confined around the distal end portion 612 of a biopsy channel via a rubber band 622, after which a distal end of the confined sheath is snipped off to open the sheath and the biopsy channel.

Thus, surgical instruments thereafter moved through the biopsy channel of such combined references do not pass through the distal end of the sheath in the

manner as claimed by applicant. Nor does the sheath of Wilk et al. '586 so confined around the biopsy channel operate in transitional modes determined by a surgical instrument retracted proximally into the associated channel or lumen, or extended through the distal end of the sheath, in the manner as claimed by applicant. It is therefore respectfully submitted that the disclosures of Chin '233 and Wilk et al. '586 combined in the manner proposed by the Examiner fail to establish or even suggest operation or similar function of a flexible hood or sheath in the manner as claimed by applicant. The deficient disclosures of these references thus fail to establish even a *prima facie* basis from which a proper determination of obviousness can be made. It is therefore respectfully submitted that remaining claims 7, 13 and 21 are patentably distinguishable over the cited art.

Favorable consideration and allowance of all claims are solicited.

Respectfully submitted,
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